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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/576,743

01/09/2007

John Hillel Moshal

06-278

8207

20306

7590

11/24/2008

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP

300 S. WACKER DRIVE

32ND FLOOR

CHICAGO, IL 60606

EXAMINER

LIM, SENG HENG

ART UNIT

PAPER NUMBER

3714

MAIL DATE

DELIVERY MODE

11/24/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/576,743

**Applicant(s)**

MOSHAL, JOHN HILLEL

**Examiner**

SENG H. LIM

**Art Unit**

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 26-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 26-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

According to the Panel Decision from Pre-Appeal Brief Review, the finality of the rejection of the last Office action issued on 4/24/2008 is withdrawn. A new finality of the office action based on the amendment filed on 2/8/2008 is addressed as follow:

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 26-40** are rejected under 35 U.S.C. 103(a) as being unpatentable over Coile et al (US 6,108,300) in view of Holch et al (US 5,674,128).

Re claim 26, 29 & 34. Coile et al discloses a system and method of operating the system comprising a primary server (210, Figure 2) and a secondary or backup server (220, Figure 2) located remotely from a station or client (200, Figure 2) and communicable with the station or client via a communication network such as the Internet (5:25-32;13:1); a watchdog facility or an application configures the primary server to receive data packet at regular intervals (5:19-25) transmitted by a client (2:65-3:2) and whenever an expected response is not received from the primary gaming sever

within a predetermined time interval (Fig. 5; 9:61-65), to change a status of the primary gaming server from active to failed (7:53-67); and a controller in the station or client for routing a request to provide an outcome or result, wherein the controller routes the request to the primary server when the status of the primary server is active (i.e. with the use of the primary MAC and IP address) and routes the request to the secondary or backup server when the status of the primary server is failed (i.e. with the use of the backup MAC and IP address) (2:50-3:2).

Coile et al teaches the invention substantially as claimed, but does not disclose the system being a gaming system comprising a player station displaying a simulation of a game and a gaming server with a random number generator. Holch et al discloses a gaming system and a method of operating the gaming system comprising a player station (100n, Fig. 1) displaying a simulation of a game and a gaming server with a random number generator (300, Fig. 3). Coile et al and Holch et al are analogous art because they are from the same field of endeavor of networking systems. At the time of invention a person of ordinary skill in the art would have found it obvious to apply Coile et al's backup server system to a gaming system to provide entertainment with fewer server disconnections.

Re claim 27-28 & 35-36. As noted above in combination of Coile et al and Holch et al, Coile et al discloses the use of a primary and secondary/backup server and Holch et al discloses the presence of a software random number regenerator (300, Fig. 3) in the server, hence the primary gaming server would use a primary random number generator to determine outcomes for the game of chance and the secondary gaming

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server uses a secondary/backup random generator to determined outcomes for the game of chance.

Re claim 30-32 & 37-39. Coile et al discloses the watchdog facility or program being executed on the player station on client and generates an alarm or notification when the status of the primary gaming server changes from active to failed, wherein the notification is obviously visible or audible to inform the status change (Figure 8; 2:64-3:2).

**Claims 33 & 40** are rejected under 35 U.S.C. 103(a) as being unpatentable over Coile et al (US 6,108,300) and Holch et al (US 5,674,128) as applied to claims 26 & 34, and further in view of Duncombe et al (US 2003/0120685 A1).

Coile et al and Holch et al teach the invention substantially as claimed, but do not disclose the primary and secondary servers synchronizing their data at regular intervals. However, synchronizing the secondary server with the primary server is well known in the art as evidence by Duncombe et al [0093]. At the time of invention a person of ordinary skill in the art would have found it obvious to modify the method and system of Coile et al and Holch et al to synchronize the secondary server with the primary server as done by Duncombe et al and would have been motivated to do so to provide an interrupted service and loss of data when the primary server fails and a transition to the secondary server is needed.

***Response to Arguments***

Applicant's arguments with respect to claims 26-40 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Correspondence***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SENG H. LIM whose telephone number is (571)270-3301. The examiner can normally be reached on 9:30-6:00, Monday-Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 571-272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Seng H Lim/

Examiner, Art Unit 3714

/Corbett Coburn/  
Primary Examiner  
AU 3714